

# **In-Home Supportive Services (IHSS) Senate Budget Subcommittee #3 Hearing**

**California Department of Social Services  
Adult Programs Division**

**March 8, 2018**



## In-Home Supportive Services (IHSS) – overview

The IHSS Program has a long, rich history of service and has been in operation for over 40 years. It is the largest program of its kind in the United States.

- » Key tenet of IHSS: It affords consumers the ability to remain safely in their homes and communities in lieu of institutionalization.

# IHSS

- » FY 17/18 estimates approximately 518,511 IHSS consumers are authorized an average of 106.8 hours per month at an average monthly cost of \$1,456.09 (absent the cost impacts of overtime).
- » IHSS consumers:
  - 15% are 85 years of age or older
  - 40% are ages 65-84
  - 38% are ages 18-64
  - 7% are ages 0-17

# IHSS Budget

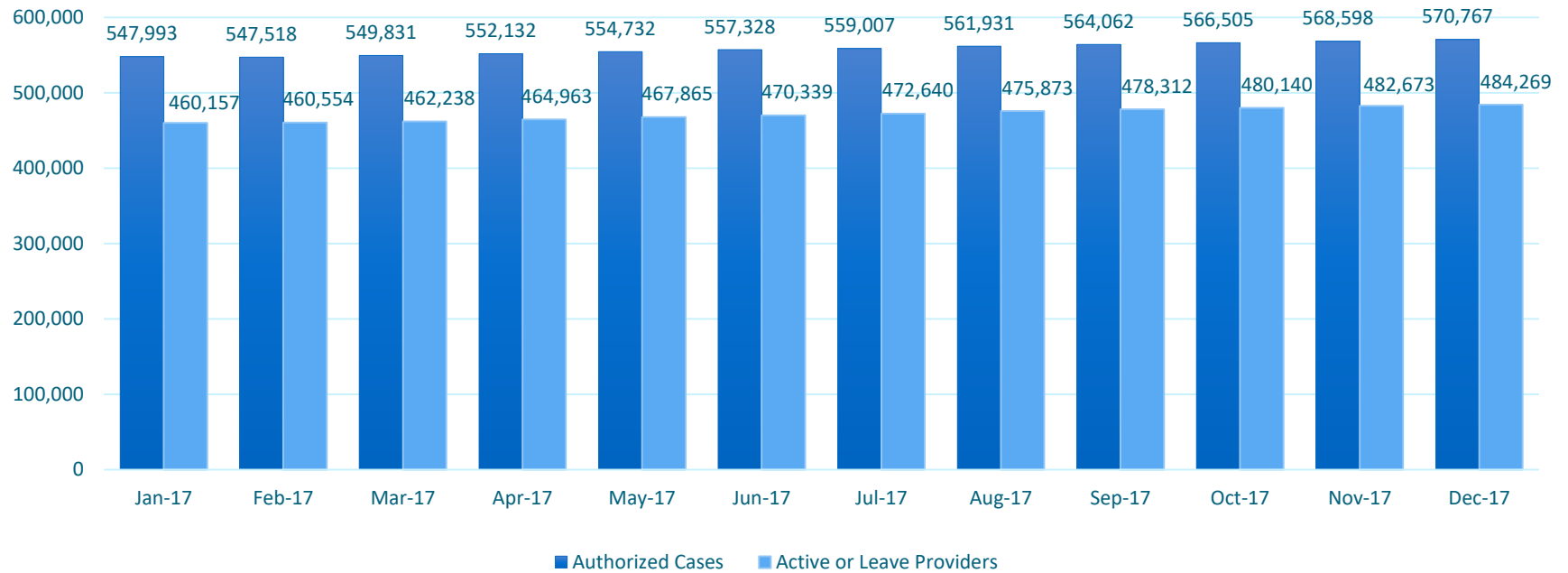
» Today:

- 98% of the IHSS program receives federal funding
- Federally funded programs:
  - Personal Care Services Program (PCSP) and IHSS Plus Option (IPO) receive 50% federal financial participation
  - Community First Choice Option (CFCO) receives 56% federal financial participation
- Less than 2% of the IHSS Program is state-and-county funded only (65/35) through the IHSS Residual (IHSS-R) program

## IHSS Budget

- » The estimated IHSS budget for FY 18-19 is \$11.2 billion:
  - \$7.6 billion federal/county reimbursement
  - \$3.6 billion state general funds
  
- » The net increase of \$1.1 billion from the 2017 Budget Act is due to the increase in minimum wage from \$11.00 per hour to \$12.00 effective January 1, 2019, and an increase in projected caseload and hours per case.

# IHSS Recipients and Providers



	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Authorized Cases	547,993	547,518	549,831	552,132	554,732	557,328	559,007	561,931	564,062	566,505	568,598	570,767
Active or Leave Providers	460,157	460,554	462,238	464,963	467,865	470,339	472,640	475,873	478,312	480,140	482,673	484,269

# IHSS Providers

Point-in-Time Counts - Providers	December 2017 Snapshot	% of Current Providers
Current IHSS providers (Active or Leave Status)	484,269	
Providers living with their recipients (same address listed)	254,609	53%
Providers who work for one recipient	391,251	81%
Providers who work for more than one recipient	91,996	19%
Paid Providers	453,000	% of Paid Providers
Providers working less than 40 hours per week	343,426	76%
Providers working 40 hours or more per week	109,574	24%
Providers Who Are Relatives of the Recipients - Note that Providers can serve in more than one family relationship.		
Spouse or Domestic Partner	22,001	5%
Parent Providers	79,096	16%
Adult Child	157,151	32%
Minor Child	403	<1%
Other Relative (grandchildren, siblings, other)	85,204	18%
Total Relative Providers	343,855	71%



# FLSA Statewide Data

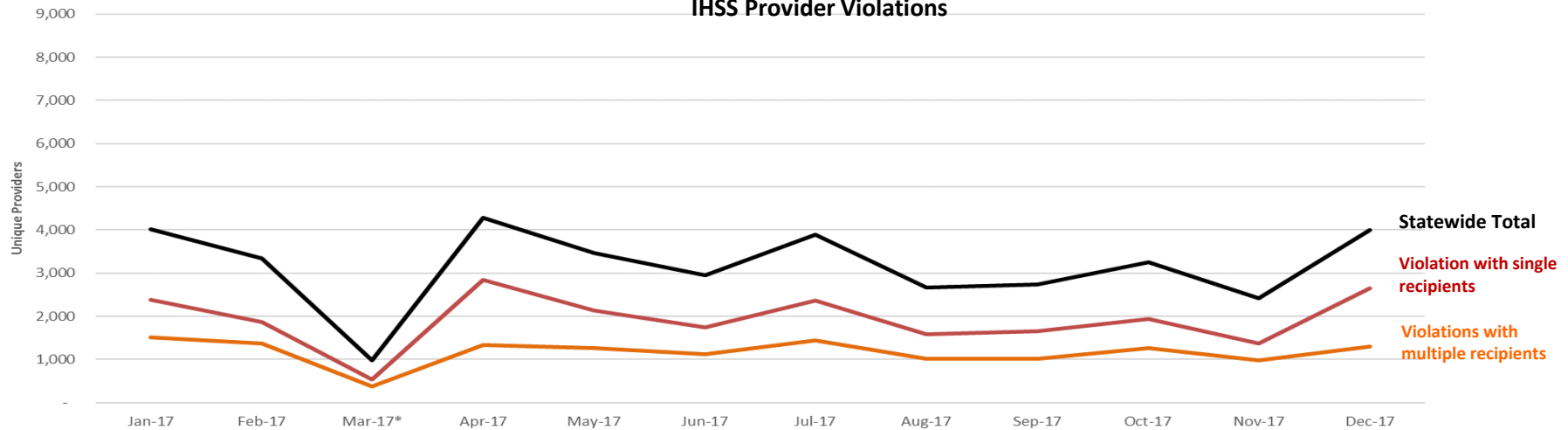
**For statistics on provider violations, go to:**

<http://www.cdss.ca.gov/inforesources/IHSS-New-Program-Requirements>





## Fair Labor Standards Act IHSS Provider Violations



Violation Type	Jan-17	Feb-17	Mar-17*	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Exceeded Weekly Max of 66 Hours (Multiple Recipients)	1,510	1,372	386	1,342	1,274	1,119	1,447	1,010	1,018	1,258	985	1,298
Exceeded the Monthly Overtime Maximum (Single Recipients)	2,386	1,872	545	2,843	2,128	1,750	2,359	1,585	1,651	1,937	1,374	2,647
Exceeded the Travel Maximum <sup>1</sup>	115	93	47	96	64	77	84	69	69	63	57	57
<b>Statewide Total</b>	<b>4,011</b>	<b>3,337</b>	<b>978</b>	<b>4,281</b>	<b>3,466</b>	<b>2,946</b>	<b>3,890</b>	<b>2,664</b>	<b>2,738</b>	<b>3,258</b>	<b>2,416</b>	<b>4,002</b>
Providers with 2 violations <sup>2</sup>	812	772	151	787	629	596	823	498	543	530	472	681
Providers with 3 violations <sup>2</sup>	176	239	47	240	183	167	217	147	167	152	148	184
Providers with 4 violations <sup>2</sup>	0	0	8	22	16	23	12	15	18	17	14	23

Methodology: Violations are tracked in the month they are triggered by a submitted timesheet regardless of service period. For example, timesheets for services between July 16-July 31, 2017 were not submitted until after August 1. All violations on these timesheets were counted in August.

\*March 2017 Violations: Violations in March 2017 were incurred from late timesheets submitted prior to Feb. Part B. On 4/18/17, violations for February 2017 Part B and March Part A timesheets were rescinded and letters were sent to the providers (# rescinded below).

1st violations: 10,809

2nd violations: 1,867

3rd violations: 492

4th violations: 31

<sup>1</sup>These are providers who exceeded the travel maximum of 7 hours per week. Included in the statewide total but not represented individually on the graph above.

<sup>2</sup>These are providers who triggered a violation in the month and currently have multiple violations. Providers with 4 violations are counted on the last day of each month. .

# IHSS Exemptions

- » Exemption 1 (as of January 5, 2018):
  - 1,399 providers have a current exemption
  - 741 denied
  - 0 pending
  
- » Exemption 2 (as of January 5, 2018):
  - 87 providers have a current exemption
  - 99 denied (some of these became Exemption 1)
  - 8 pending

## IHSS Exemption 2 – SB 89

SB 89 (Statutes of 2017) allows eligible providers to exceed the 66-hour/week limit when eligible for the Extraordinary Circumstances Exemption (Exemption 2). This exemption applies to providers who provide services for two or more recipients whose extraordinary circumstances place them at serious risk of placement in out-of-home care, and each of the recipients meet at least one of the following criteria and no other provider is available:

- Criteria A** – He or she has complex medical or behavioral needs that must be met by a provider who lives in the same home as the recipient.
- Criteria B** – He or she lives in a rural or remote area where available providers are limited, and, as a result, the recipient is unable to hire another provider.
- Criteria C** – He or she is unable to hire another provider who speaks the same language as the recipient, resulting in the recipient being unable to direct his or her own care.

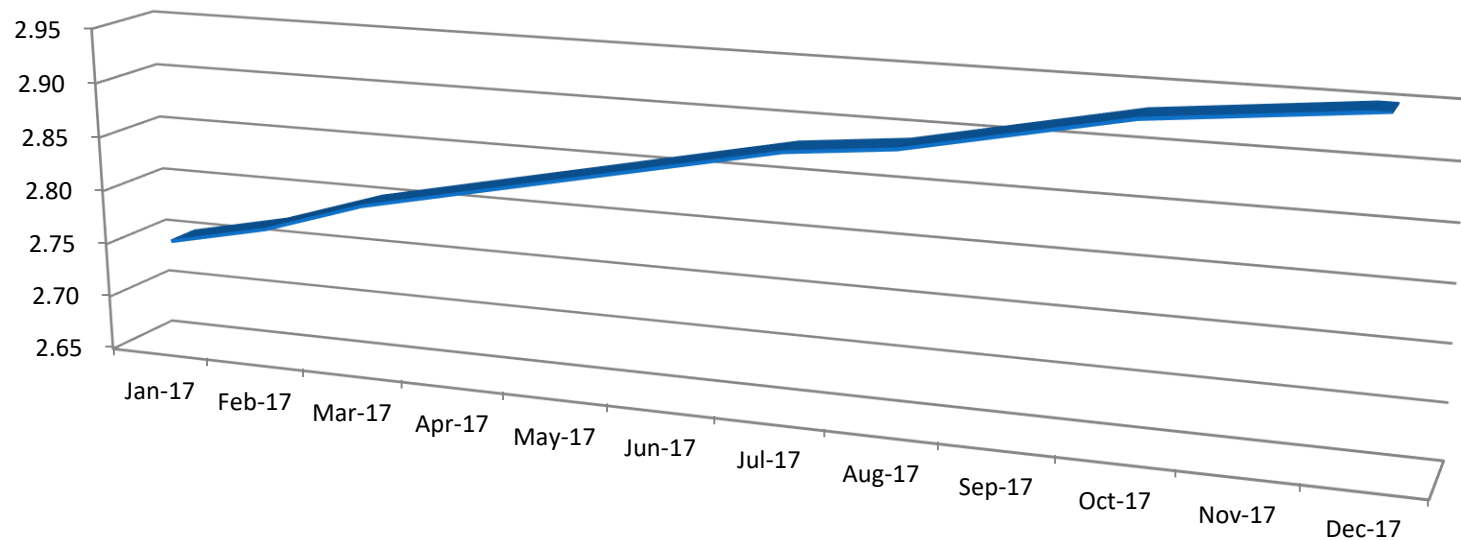
## IHSS Exemption 2 – SB 89

SB 89 requires CDSS to inform potentially eligible IHSS providers and recipients about Exemption 2. It also moves Exemption 2 eligibility determination duties from the state to the county. CDSS is currently doing the following activities to meet SB 89 requirements:

- » Sending an Exemption 2 informational mailer to all potential eligible providers and recipients.
- » Issuing an All-County Letter with instructions for counties assessing and evaluating IHSS cases for exemption eligibility.
- » Creating an Exemption 2 State Administrative Review (ESAR) process for providers when the county deems them ineligible for an Exemption 2.
- » Implementing CMIPS II systems changes to support the county eligibility determination process. Transition is expected to be complete in spring 2018.
- » Training for counties regarding the exemption process and CMIPS II system modifications will be provided via webinar(s) upon release of the instructions, which is expected in spring 2018.

# IHSS Wait Time

## IHSS - Average Medical Accompaniment Hours



	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
IHSS- Average Medical Accompaniment Hours	2.75	2.77	2.80	2.82	2.84	2.86	2.88	2.89	2.91	2.93	2.94	2.95

# IHSS Timesheets and Overtime At a Glance

» January-December 2017:

- Average total overtime paid per month is \$42,345,848
- Average hours worked per provider paid overtime is approximately 59 hours

Overtime	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Providers Paid OT*	104,326	101,464	119,999	108,090	107,999	101,405	106,475	103,973	103,069	109,105	104,692	107,447
Total OT Hours Paid	6,878,597	5,772,870	7,668,169	7,006,670	6,851,194	5,276,444	6,480,411	5,495,552	5,713,838	6,546,941	5,398,384	6,129,360
Avg. OT Hours per Provider Paid OT	66	57	64	65	63	52	61	53	55	60	52	57
Total OT Paid	\$46,224,171	\$38,793,686	\$51,530,093	\$47,084,823	\$46,040,022	\$35,457,706	\$44,034,391	\$37,342,272	\$38,825,529	\$44,486,465	\$36,682,017	\$41,649,003

# IHSS Travel At a Glance

» January-December 2017:

- Average total Travel Time paid per month = \$1,549,088
- Average Travel Hours paid per provider claiming travel time = 15.2 hours

Travel	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Providers Paid Travel	7,377	7,077	7,093	6,843	6,885	6,815	6,565	6,685	6,611	6,656	6,394	6,252
Total Travel Hours Paid	132,621	105,175	124,708	109,578	113,970	110,372	88,263	95,754	93,126	102,600	81,746	80,867
Avg. Travel Hours per Provider Paid Travel	18.0	14.9	17.6	16.0	16.6	16.2	13.4	14.3	14.1	15.4	12.8	12.9
Total Travel Paid	\$1,962,678	\$1,536,491	\$1,829,718	\$1,633,370	\$1,732,051	\$1,630,828	\$1,336,237	\$1,457,932	\$1,404,453	\$1,590,017	\$1,241,636	\$1,233,647

## **IHSS Timesheet Data Paper and Electronic Processing**

**For IHSS Electronic Timesheet information, go to:**

<http://www.cdss.ca.gov/inforesources/IHSS-Providers/Resources/Timesheet-Information>



# IHSS/WPCS Electronic Timesheet Rollout 2017

- » Electronic timesheets (ETS) piloted in three counties in June 2017. ETS was offered in all 58 counties on November 27, 2017.



## Go-Live Dates

Pilot: June 2017

Wave 1: August 2017

Wave 2: September 2017

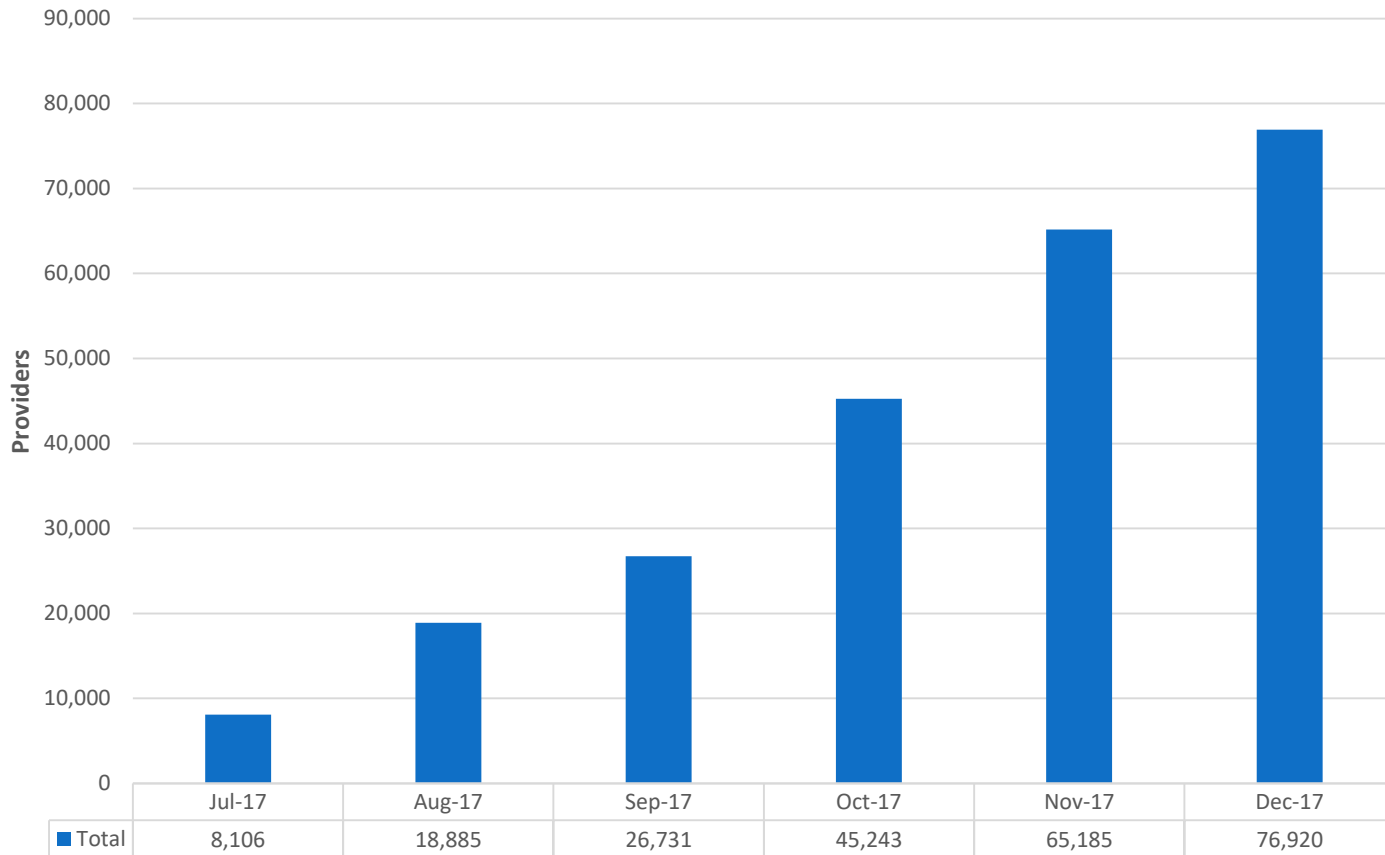
Wave 3: October 2017

Wave 4: November 2017

## As of December 31, 2017

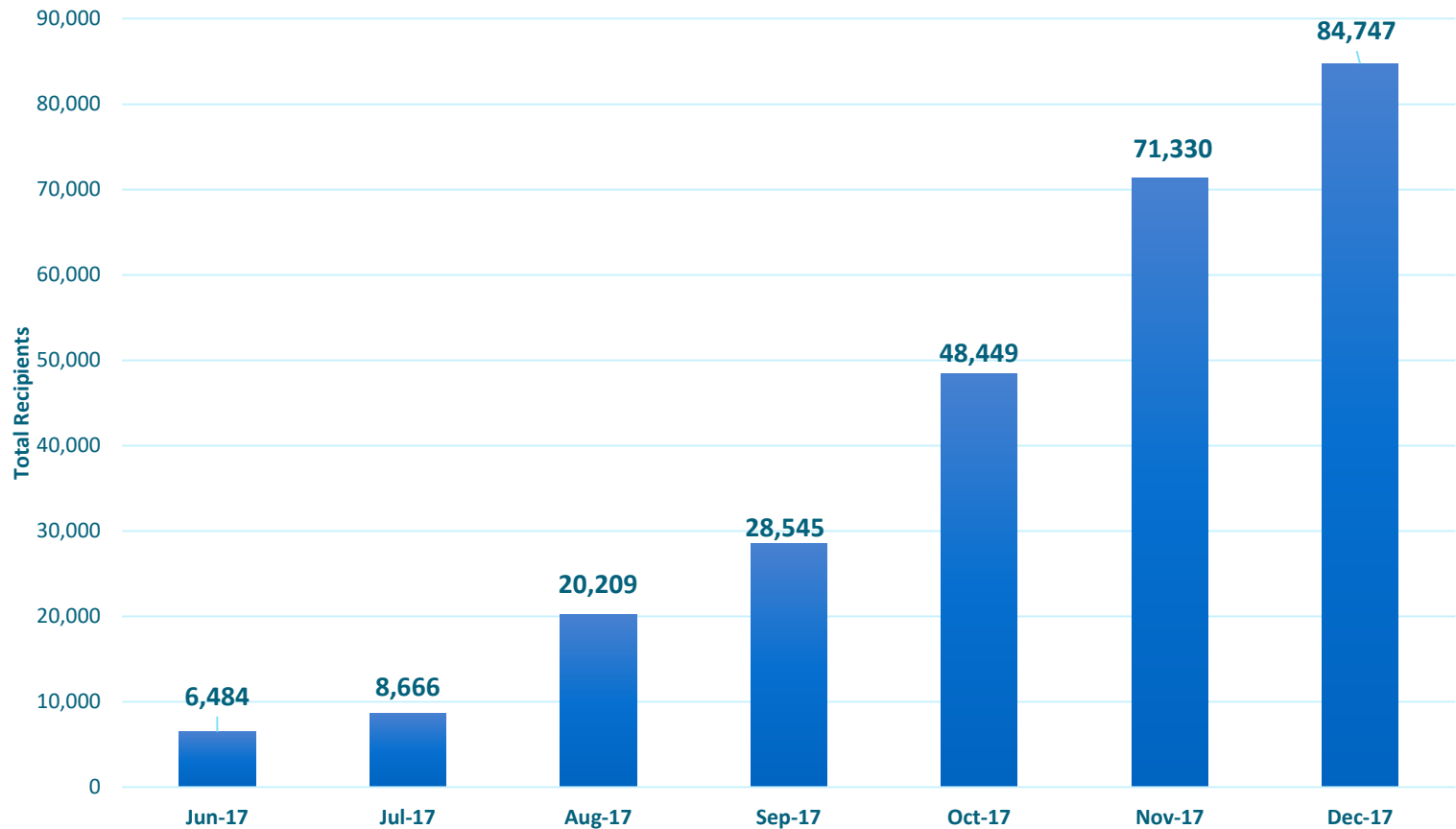
- **Total ETS Recipients: 84,820**
  - IHSS Website: 84,209
  - Telephone Timesheet System (TTS): 538
  - BVI ETS Telephone Timesheet System (TTS): 73
- **Total ETS Providers: 88,434**
  - Active Enrollments: 76,920
  - Request Pending with Recipient: 11,514

# Providers Enrolled in ETS



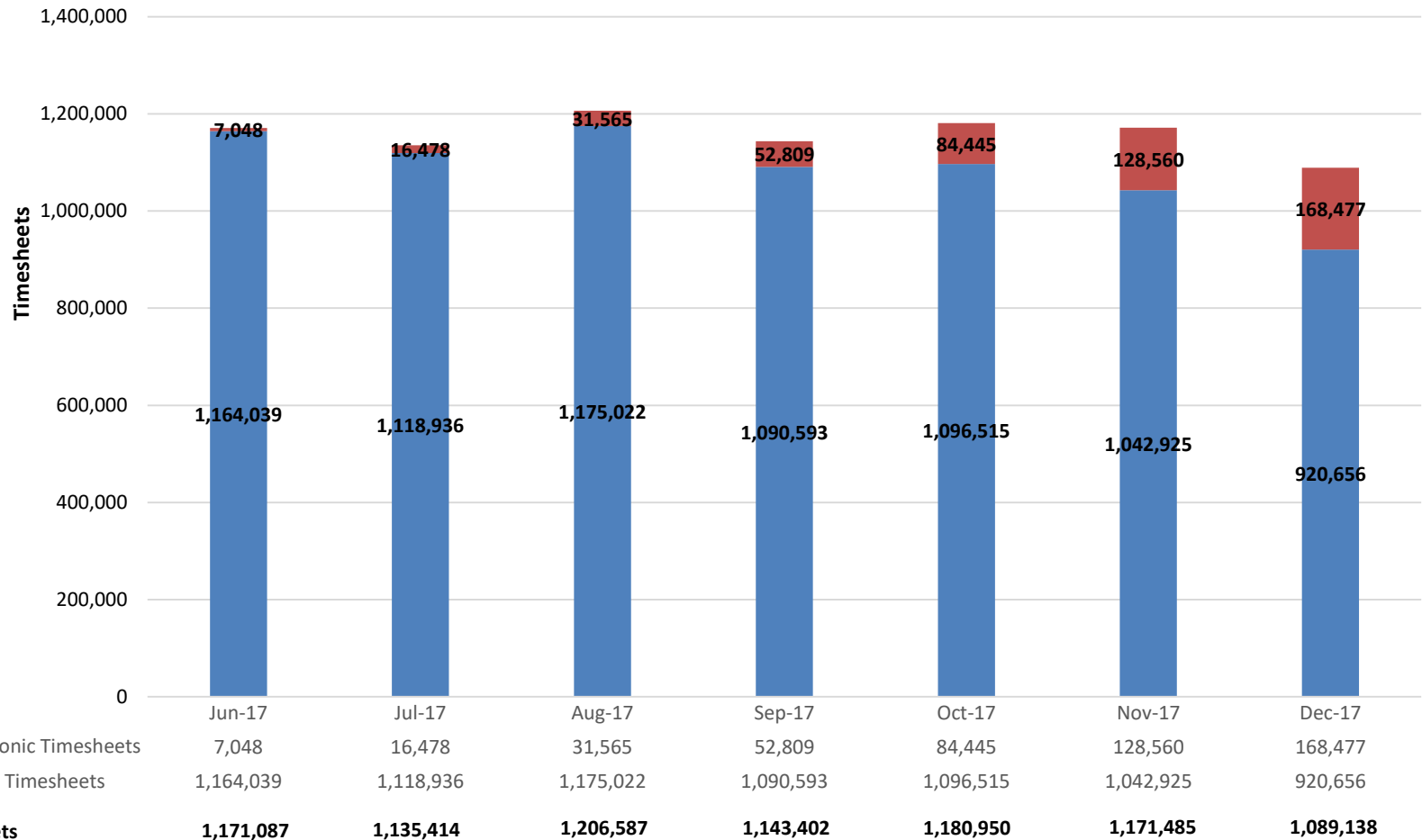
- All providers enrolled are in active or leave status.
- 95,646 (19.7%) providers have registered (created a user name and password) to use the ETS website but may not have completed the enrollment process.
- 76,920 (15.9%) providers have active enrollment in ETS.

# Recipients Approving Electronic Timesheets



Recipients Approving Electronic Timesheets	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Total Recipients - IHSS Website Option	6,481	8,604	20,074	28,318	48,124	70,876	84,209
Total Recipients – ETS TTS	3	62	135	227	325	454	538
Total Recipients - BVI ETS TTS	7	9	18	30	51	65	73
<b>Total Recipients Website or TTS</b>	<b>6,491</b>	<b>8,675</b>	<b>20,227</b>	<b>28,575</b>	<b>48,500</b>	<b>71,395</b>	<b>84,820</b>

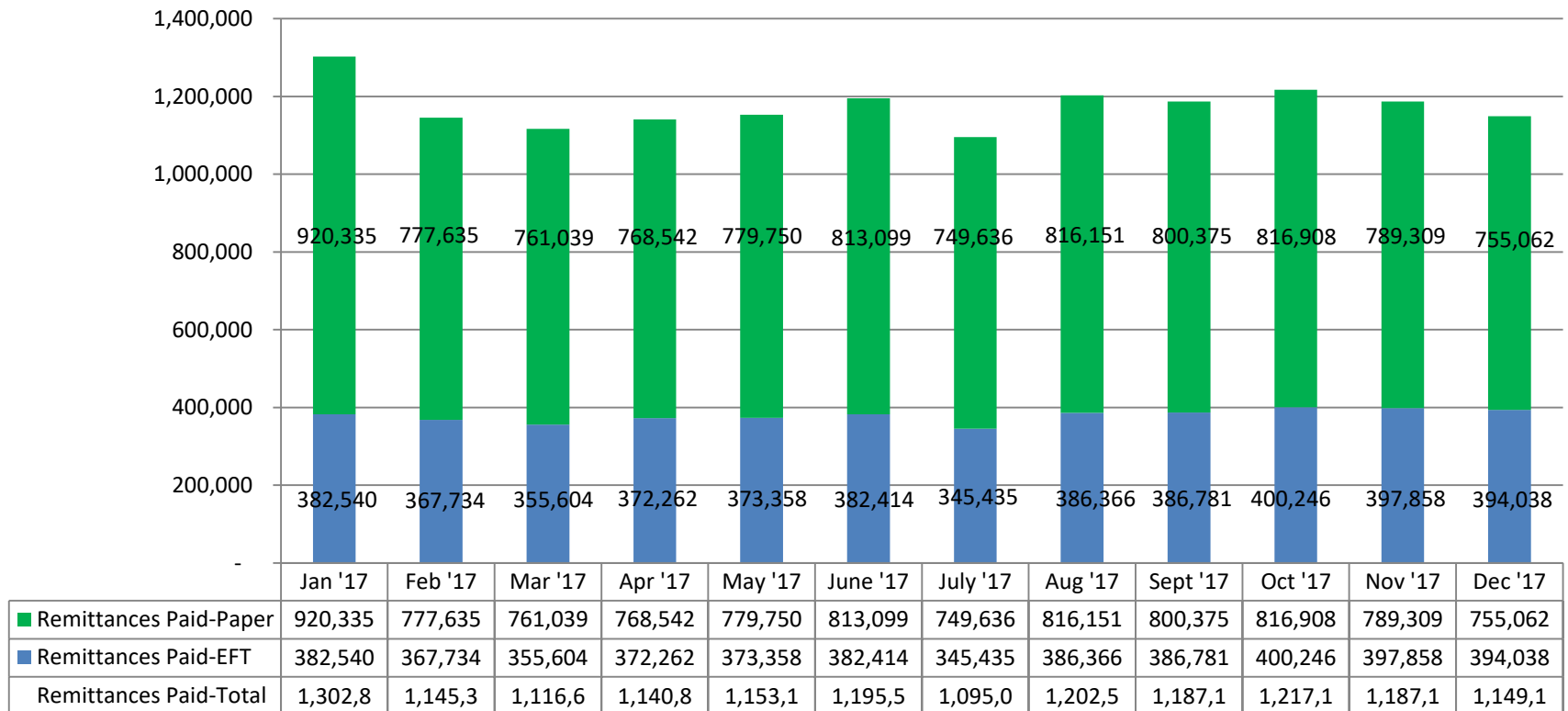
# Processed Paper & Electronic Timesheets



- As of December 31, 2017, 15% of timesheets processed are electronic timesheets.

# IHSS Remittance Metrics

## Remittances Paid



- On average, 68% of remittances paid is paper and 32% is EFT for calendar year 2017.

## SB 3 – Paid Sick Leave for IHSS Providers

### » Sick Leave

SB 3 added Labor Code (LC) section 246(a)(2) which states, “Beginning July 1, 2018, an IHSS provider who works 30 calendar days within one year from the implementation date or the commencement of employment (whichever is later) as an IHSS provider will earn eight hours of paid sick leave.”

> Because IHSS providers do not work traditional work schedules, to ensure a fair and equitable method of earning sick leave and still comport with State Labor Code statutes, CDSS in conjunction with stakeholders determined that the current average number of hours worked by an IHSS provider in a 30-day period would be utilized as the criteria for having worked the required 30 calendar days.

> After 7/1/18, providers will earn 8 hours of sick leave after they have worked for 100 hours.

## SB 3 – Paid Sick Leave for IHSS Providers

### » Sick Leave

The amount of paid sick leave earned is the full amount of leave each provider will receive for the year. Because of this, there will be no carryover of paid sick leave from year to year.

- > July 1, 2018—December 31, 2019: IHSS providers earn eight (8) hours of paid sick leave per year. [LC section 264(e)(1)]
- > January 1, 2020—December 31, 2021: IHSS providers earn sixteen (16) hours of paid sick leave per year when the minimum wage has reached \$13 per hour. [LC section 264(e)(2)]
- > January 1, 2022: IHSS providers earn twenty-four (24) hours of paid sick leave per year when the minimum wage has reached \$15 per hour. [LC section 264(e)(3)]



## SB 3 – Paid Sick Leave for IHSS Providers

### » Sick Leave Usage

When Can the Provider Begin Using Sick Leave?

- > After an IHSS provider has worked 100 hours and earned his or her 8 hours of paid sick leave, the provider must work an additional 200 hours, or 60 calendar days must pass after meeting the 100 hour requirement (whichever comes first), in order to use the 8 hours of paid sick leave.



## SB 3 – Paid Sick Leave for IHSS Providers

### » Sick Leave Usage

How much sick leave can be used at a time?

- > All accrued hours may be used at once if needed.
- > A base minimum increment of 1 hour shall be established for use of paid sick leave.
- > Paid sick leave can be requested in increments of half-hour periods after the first hour.

## SB 3 – Paid Sick Leave for IHSS Providers

### » Sick Leave – Next Steps

- > Stakeholder process to develop CMIPS II changes to implement paid sick leave is currently underway.
- > CDSS is working with counties and stakeholders to develop policy for back-up providers for severely impaired recipients.
- > All-County Letters on implementation are forthcoming.

# Provider Enrollment

CDSS currently is working with stakeholders to identify potential ways to expedite the provider enrollment process. The workgroup is currently examining 3 aspects of the provider enrollment process:

- > Streamlining distribution of enrollment forms (including DOJ background check forms)
- > Increasing access to provider orientation
- > Linkage of provider and recipient cases in order to issue initial timesheets more quickly

# Electronic Visit Verification (EVV)

- » Subsection I of Section 1903 of the Social Security Act (42 U.S.C. 1396b), enacted in December 2016, requires all states to implement EVV for Medicaid-funded (Medi-Cal in California) personal care services by January 2019 and home health care services by January 2023.
  
- » EVV must capture six items:
  - > Type of service performed;
  - > Individual receiving the service;
  - > Date of the service;
  - > Location of service delivery;
  - > Individual providing the service; and
  - > Time the service begins and ends.
  
- » Daily start and stop time and the type of each service provided currently are not captured in the IHSS Program.



# Electronic Visit Verification (EVV) – Federal Guidance

- » The Centers for Medicare and Medicaid Services (CMS) held two webinars to provide guidance to the States:
  - > Federal Law and EVV Requirements - December 2017
  - > Promising Practices - January 2018
- » Additional CMS guidance is expected soon



# Electronic Visit Verification (EVV) – Federal Penalty Estimate

- » Failure to comply with the EVV requirement for personal care services will result in the escalating Federal Medical Assistance Percentages (FMAP) penalty below for only those services:
  - > For calendar quarters in 2019 and 2020, by 0.25 percentage points;
  - > For calendar quarters in 2021, by 0.5 percentage points;
  - > For calendar quarters in 2022, by 0.75 percentage points; and
  - > For calendar quarters in 2023 and each year thereafter, by 1.0 percentage point.
- » IHSS Program Penalty Estimate:
  - > FY 2018-2019 = \$13,175,000
  - > FY 2019-2020 = \$29,480,000
  - > FY 2020-2021 = \$50,087,000
  - > FY 2021-2022 = \$93,898,000
  - > FY 2022-2023 = \$144,181,000
  - > FY 2023-2024 = \$179,718,000



## Electronic Visit Verification (EVV) – Stakeholder Engagement

- » The State has not decided how, or when, EVV will be implemented. The State does intend to comply with federal law and is also committed to a thoughtful implementation process fully inclusive of stakeholders. Therefore, California will not meet the required implementation date of January 1, 2019. The State will work with the federal Centers for Medicare and Medicaid Services (CMS) to request a one-year good faith effort extension. The State will also work with stakeholders and CMS to identify a realistic implementation date, potentially beyond one year, that will allow for full stakeholder engagement and development of the least burdensome EVV approach for our recipients and providers as required by Section 1903 of the Social Security Act (42 U.S.C. 1396b).



# Electronic Visit Verification (EVV) – Stakeholder Engagement

- » CDSS is committed to extensive stakeholder participation in the exploration of EVV implementation.
- » Engagement to Date
  - > Held the 1<sup>st</sup> EVV stakeholder meeting – 10/12/17
  - > Accepted stakeholder and legislative staff comments on a draft Request for Information (RFI) – 10/19/17
  - > Released the RFI – 10/26/17
  - > Received 18 RFI vendor responses – 12/13/17
  - > Presentations from Select RFI Vendors – Jan./Feb. 2018
- » Next Steps
  - > 2<sup>nd</sup> EVV Stakeholder Meeting – Friday, March 9, 2018, 1-3 p.m.





## Additional Information & Questions

- » For additional Information and future updates, please visit the **CDSS EVV Webpage**:  
<http://www.cdss.ca.gov/inforesources/IHSS/EVV>
- » If you would like to be added to the State's EVV Stakeholder Distribution List or submit EVV-related questions, please send an email to [EVV@dss.ca.gov](mailto:EVV@dss.ca.gov).

